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UNCLAS SECTION 01 OF 02 BRASILIA 003937

SIPDIS

DEPT FOR INL, WHA/BSC
DEPT PLEASE PASS TO AID: AA/LAC AND LAC/SAM
JUSTICE FOR OIA, AFMLS, NDDS
TREASURY FOR FINCEN AND OFAC
DEA FOR OFL

E.O. 12958: N/A

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SUBJECT: BRAZIL 2002-2003 INCSR: PART II - FINANCIAL
CRIMES AND MONEY LAUNDERING

REF: A) STATE 240035

B) BRASILIA 4415

1. Following is the Financial Crimes and Money Laundering section of Brazil's 2002-2003 INCSR. Ref B transmits post's submission of the non-money laundering portion.

2. Due to its great size and large economy, Brazil is considered a regional financial center. It is not, however, an offshore financial center. Brazil maintains adequate banking regulation, retains some controls on capital flows and requires disclosure of the ownership of corporations. Brazilian authorities report that money laundering in Brazil is primarily a problem of domestic crime, including contraband goods smuggling and corruption, both of which generate funds that may be laundered through the banking system, real estate investment or financial asset markets. The proceeds of narcotics trafficking and organized criminal activities are laundered in like fashion. The authorities have not uncovered any evidence of terrorism-related money laundering. Money laundering is a criminal offense in Brazil.

3. According to Brazilian authorities, Brazilian institutions do not engage in currency transactions that include significant amounts of U.S. currency, currency derived from illegal drug sales in the U.S., or that otherwise significantly affect the U.S. The authorities believe that organized crime groups use the proceeds of domestic drug trafficking to purchase weapons from Colombian guerilla groups.

4. Brazil's 1998 money laundering law (Law 9613 of March 3, 1998) and related regulations make money laundering a criminal activity and require financial entities and other appropriate organizations to maintain records and report suspicious financial transactions. Money laundering is a criminal offense if engaged in to conceal the proceeds of narcotics trafficking, terrorism, weapons trafficking, kidnapping, acts against the public administration (corruption), acts against the financial system and acts committed by a criminal organization.

5. Brazilian Financial institutions, real estate agents, currency exchanges, stock brokerages, lottery game operators and dealers in fine art and antiquities are required by the 1998 law to know their customers and to maintain adequate records of transactions and of the parties involved. They must report suspicious transactions. Financial entities and their managers that fail to meet these requirements can be administratively punished. These sanctions include fines and revocation of operating licenses. A 2001 law (Complementary Law 105 of January 10, 2001) requires financial institutions to provide law enforcement agencies full access to financial transactions information, including information on the ownership of client companies, in cases of investigations into money laundering, terrorism finance, narcotics trafficking, weapons trafficking kidnapping, corruption and organized crime.

6. The Council for the Control of Financial Activities (COAF) is responsible for coordinating the governmental agencies addressing money laundering and is also the central recipient of required reports regarding suspect financial activities. Any suspicious transaction or transaction above 10,000 Reals must be reported. COAF receives from 300 to 500 suspicious transaction reports a month, about 2% of which lead to formal investigations by law enforcement. A number of bank accounts and other funds were blocked because of suspicion of money laundering. In some instances, funds were forfeited following judicial decisions. In 2003 Brazilian courts handed down their first criminal conviction for money laundering. The case involved

illegal transfer of money overseas through a currency exchange in Foz do Iguacu. A flood of new investigations (1,043 in 2003, up from 345 in 2002) has led to a sharp spike in the number of money laundering cases going to court (132 in 2003, up from 34 in 2002). To deal with the flood of cases, the authorities have created seven special money laundering courts and expect to create one more. The judges in these courts generally have received some specialized training to deal with money laundering cases.

17. Brazilian authorities do not believe cross-border transportation of illegal source currency to be a significant problem in Brazil. Cross-border movement of more than 10,000 Reals of currency or negotiable instruments must be reported.

Terrorism Finance

18. In July 2003, President da Silva signed legislation that criminalizes terrorism financing (Law 10.701 of July 9, 2003, which amends Law 9.613 of March 3 1998), making it a predicate offense under the money laundering law. The legislation clarified previously existing authority under the money laundering law and presidential decrees implementing U.N. Security Council resolutions that gave the government the authority to search for and block terrorist financial assets. Brazilian authorities have cooperated in searching for assets of individuals and organizations identified as terrorists by the UNSCR 1267 sanctions committee. As of December 2003, the GoB had not located any terrorist financial assets in Brazil. Brazil is a signatory of the 1999 International Convention for the Suppression of the Financing of Terrorism, but has not yet ratified the agreement.

International Cooperation

19. Brazil is a full member of the Financial Action Task Force (FATF) and has chaired the regional subgroup, FATF-South. The Council for the Control of Financial Activities (COAF) exchanges information with other countries. Brazil has bilateral information exchange agreements with 12 other countries, including Belgium, France, Portugal, Spain, Bolivia, Guatemala, Panama, Paraguay, Colombia and Russia and is negotiating agreements with nine more. Brazilian law allows information exchange on a reciprocal basis without need for a bilateral agreement and conducts such exchanges with many countries. Brazil also is a member of the Egmont Group of financial intelligence units (FIUs) and is connected to the group's secure network, which facilitates information exchange among member FIUs worldwide. As a matter of government policy, neither Brazil nor any of its representatives engages, encourages, or facilitates laundering of proceeds from illegal transactions of any kind.

10. Brazil has cooperated with appropriate law enforcement agencies of the USG and other governments investigating financial crimes.

11. Brazil has established systems for identifying, tracing, freezing, seizing, and forfeiting narcotics-related assets. These systems are managed jointly by COAF and the Justice Ministry. The judicial system has the authority to forfeit seized assets. Police authorities, customs, and Brazilian revenue service are responsible for tracing and seizing assets, and have adequate police powers and resources to perform such activities.

12. Brazil's money laundering law permits the sharing of forfeited assets with other countries. Traffickers have not taken any retaliatory actions related to money laundering investigations, government cooperation with the USG, or seizure of assets.

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